



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
GREENVILLE DIVISION

DAVID FARRELL SULLIVAN, §
§
Plaintiff, §
§
vs. § CIVIL ACTION NO. 6:04-23266-HFF-WMC
§
SOUTH CAROLINA DEPARTMENT OF §
CORRECTIONS DIRECTOR JON §
OSMIT [sic]; TYGER RIVER §
CLASSIFICATION MANAGERS RABB and §
LAWTER; TYGER RIVER MAILROOM §
SUPERVISOR MS. MANESS; ASSOCIATE §
WARDEN LLOYD; ASSOCIATES §
WARDEN COUNTS; MAJOR BREWTON; §
CAPT. THOMPSON; LT. SHELTON; §
LIBRARIAN MARY MCCABE; LT. PEAK; §
LT. BAILEY; WARDEN, SCDC KIRKLAND §
R&E CENTER; SCDC WARDEN RICHARD §
SMITH; and SMU CAPTAIN ALEXANDER §
and NURSE DONNA SMILEY, §
§
Defendants. §

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE MAGISTRATE
JUDGE, GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT AND
DENYING PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

I. INTRODUCTION

This is a Section 1983 action. Plaintiff is proceeding *pro se*. The matter is before the Court for review of the United States Magistrate Judge's report and recommendation (report) in which he suggests that Defendants' motion for summary judgment be granted and Plaintiff's motion for

summary judgment be denied. The report is made in accordance with 28 U.S.C. § 636 and Local Civil Rule 73.02 DSC.

II. THE REPORT

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with the Court. *See Matthews v. Weber*, 423 U.S. 261, 270 (1976). The Court is charged with making a *de novo* determination of those portions of the report to which specific objection is made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. *See* 28 U.S.C. § 636(b)(1).

Magistrate Judge William M. Catoe filed his report on August 4, 2005. Plaintiff filed his objections to the report on August 15, 2005.

III. OBJECTIONS

As already noted, the Court is required to “make a *de novo* determination of those portions of the [magistrate’s] proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b)(1)(C). Specific objections are necessary to focus the Court’s attention on disputed issues. *Thomas v. Arn*, 474 U.S. 140, 147-48 (1985). Because general objections do not direct the Court’s attention to any specific portions of the report, general objections to the Magistrate Judge’s report are tantamount to a failure to object. *See Orpiano v. Johnson*, 687 F.2d 44, 47 (4th Cir. 1982) (*de novo* review not required where objections are general and conclusory). A failure to object waives appellate review. *Wright v. Collins*, 766 F.2d 841, 845-46 (4th Cir. 1985).

In the instant case, Plaintiff failed to make any specific objections to the Magistrate Judge’s report. Instead, in his one page objection, Plaintiff merely objects to the Magistrate Judge’s conclusion and recommendation. In the absence of objections, the Court is not required to give any

explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983).

Plaintiff, however, did file a Supplemental Response to Defendants' Motion for Summary Judgment. In the interest of justice and in an abundance of caution, the Court has made a *de novo* review of those portions of the report that deal with the issues raised in Plaintiff's Supplemental Response. For the reasons stated in the report, the Court finds Plaintiff's contentions to be without merit.¹

IV. CONCLUSION

After a thorough review of the report and the objections pursuant to the standard set forth above, the Court overrules Plaintiff's objections, adopts the report, and incorporates it herein. Accordingly, it is the judgment of this Court that Defendants' motion for summary judgment be **GRANTED** and Plaintiff's motion for summary judgment be **DENIED**. Any motions remaining are rendered **MOOT**.

IT IS SO ORDERED.

Signed this 23rd day of August, 2005, in Spartanburg, South Carolina.

s/ Henry F. Floyd
 HENRY F. FLOYD
 UNITED STATES DISTRICT JUDGE

NOTICE OF RIGHT TO APPEAL

Plaintiff is hereby notified that he has a right to appeal this Order within thirty (30) days from the date hereof, pursuant to Rules 3 and 4 of the Federal Rules of Appellate Procedure.

¹The Court has also reviewed the declarations presented by Plaintiff, but is unable to find that they save Plaintiff's action.